IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

MFA. (W.C.Act)No. 111 of 2004()

WCC.28/1996 of COMMISSIONER FOR WORKMEN'S COMPENSATION(DEPUTY LABOUR COMMISSIONER),ERNAKULAM

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APPELLANTS: APPLICANTS:

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1. MARY KUNJU, W/O. LATE JOSE,
   KATTUVAYALIL HOUSE, CHENGAL P.O., KALADY.

2. JERRY (MINOR), D/O. LATE JOSE,
   REPRESENTED BY NATURAL GUARDIAN THE 1ST APPELLANT.

3. BINOY (MINOR), S/O. LATE JOSE,
   REPRESENTED BY NATURAL GUARDIAN THE 1ST APPELLANT.

BY ADV. SRI.P.RAMAKRISHNAN
SMT.T.C.KRISHNA

RESPONDENTS: OPPOSITE PARTIES:

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1. AMMINI KARNAN, PROPRIETRIX,
   KKR MILLS, OKKAL, KALADY.

2. RAVI, S/O. SREEDHARAN,
   THOPPIL HOUSE, OKKAL, KALADY.

R2 BY ADV. SRI.B.K.GOPALAKRISHNAN
SRI.B.V.BALAKRISHNAN
R2 BYADV. SRI.B.K.PURUSHOTHAMAN

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

C.M.Appln.No.1352 of 2004
IN
M.F.A.(W.C.Act) No.111 of 2004

Dated, this the 14th day of December, 2007

ORDER

This is an application filed under Section 5 of the Indian Limitation Act for condoning the delay of 750 days in filing the appeal. The appellants filed a petition claiming compensation on account of the death of the husband of the first appellant. The order was passed on 5.7.1999. Appeal is filed only on 18.6.2004. The reason stated for the delay is financial constraints. It is admitted that the appellants received the copy of the order on 3.4.2002. It is averred that though the order was passed in the year 2002 they received the compensation ordered only during May, 2004 and hence she was unable to file this appeal in time. Even according to the appellants they received the compensation amount during May, 2004 for the reasons best know to the appellants, which are suppressed in this application. Learned counsel for the first respondent submits that within 30 days from the date of order the respondent had deposited the entire amount and the appeal is filed solely with a view to harass the respondent. I do not think the financial difficulties of the appellants can be taken as a ground to condone the delay in filing the appeal. Apart from that no other reasons are stated in the affidavit. Petition is only to be dismissed.

In the result, delay condonation petition is dismissed.

K. PADMANABHAN NAIR,
JUDGE.

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K. PADMANABHAN NAIR ,J.

M.F.A. (W.C.Act) No.111 of 2004

Dated, this the 14th day of December, 2007

JUDGMENT

Today I have dismissed the application for condonation of delay. In view of the dismissal of the delay condonation petition the appeal is barred by limitation.

In the result, appeal is dismissed as barred by limitation.

K. PADMANABHAN NAIR,
JUDGE.

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